

Notices of Public Information contain corrections that agencies wish to make to their notices of rulemaking; miscellaneous rulemaking information that does not fit into any other category of notice; and other types of information required by statute to be published in the *Register*. Because of the variety of material that is contained in a Notice of Public Information, the Office of the Secretary of State has not established a specific format for these notices.

[M13-357]

N/A

8. The preliminary summary of the economic, small business, and consumer impact:

N/A

9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

N/A

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Anyone can request to speak at a scheduled monthly meeting of the Arizona Constable Ethics, Standards, and Training Board and may contact CESTB chairperson, Constable Ron Myers, directly.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

N/A

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

N/A

13. The full text of the rules follows:

RULES OF THE ARIZONA CONSTABLE ETHICS, STANDARDS, AND TRAINING BOARD

The Constable Ethics, Standards, and Training Board sets the professional standards for constables throughout Arizona, ensures that every constable is meeting their continuing education requirements, and provides supplemental funding to counties for constable training and equipment. The board also investigates complaints against constables.

SECTION A. ORGANIZATION AND ADMINISTRATION.

Rule 1. Scope of Authority.

The disciplinary and other authority of the board extends to every constable and deputy constable who is subject to the provisions of A.R.S. §§ 22-131 – 22-138.

Rule 2. Membership and Organization.

(a) Members. The board's membership shall be comprised of nine members, appointed to four year terms, in specific categories as provided in A.R.S. § 22-136.

(b) Officers. The board shall elect a chairperson, a vice-chairperson, and a secretary, each of whom serve for one year. Each may serve successive terms without limitation.

(c) Duties of Officers. The chairperson performs the duties normally associated with such a position, including but not limited to, setting the agenda for and presiding over meetings, overseeing committees, appointing individuals to committees, and serving as the board's primary representative to other organizations, when it is necessary to do so. The vice-chairperson shall act as chairperson in the absence of the chairperson. The secretary shall ensure that the permanent minutes of board meetings are kept.

Rule 3. Meetings.

(a) Notice of Meetings. Notice of board meetings must be provided at least 24 hours in advance to all board members as well as to the general public. These notices shall be posted in a manner required by law as well as on the board's web page. This notice shall include information identifying the board and the date, time, and place of the meeting. This notice shall also include an agenda of the matters to be discussed, considered, or decided at the meeting. Every agenda shall also include a call to the public with the following language: "Call to the Public: This is the time for the public to comment. Members of the board may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. § 38-431.01(H), action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism or scheduling the matter for further consideration and decision at a later date."

(b) Quorum. If at least five board members are present (in person, by phone, or by proxy), then the board can transact business.

(c) **Disqualification.** Any member of the board should disqualify himself or herself in any matter where their impartiality could reasonably be questioned.

SECTION B. THE COMPLAINT PROCESS.

Rule 4. Commencement of a Complaint. The board shall examine every written complaint filed against a constable. In the absence of a written complaint, the board can initiate the complaint process on its own if information is brought to its attention concerning a constable's performance or nonperformance of his or her duties.

Rule 5. Initial Screening. The chairperson shall conduct an initial screening to determine whether a complaint warrants investigation and evaluation. A complaint that is frivolous, clearly unfounded, or outside the board's jurisdiction shall be dismissed subject to review by the board at its next scheduled meeting. If the chairperson makes such a determination, he or she shall provide a copy of the complaint, and that determination, to the constable that is the subject of the complaint, at least seven calendar days before the board meeting where it will be discussed.

Rule 6. Investigation.

(a) **Preliminary Investigation.** If a complaint is not dismissed, then it will be referred to a subcommittee for a discussion of what, if any, preliminary investigation is necessary. If the complaint is against an urban constable (from a county with a population in excess of one million), then the subcommittee shall consist of two rural constables and two other members of the board. If the complaint is against a rural constable (from a county with a population less than one million), then the subcommittee shall consist of two urban constables and two other members of the board.

(b) **Request for Response from Constable.** As part of the preliminary investigation, the constable may be notified of the substance of the complaint and afforded a reasonable opportunity to respond. The board shall not recommend that any action be taken against a constable unless that constable has first had notice and an opportunity to respond to the complaint. A constable who is the subject of a complaint may appear before the full board to present evidence on his or her behalf.

(c) **Expenses Associated with Investigation.** With the approval of either the chairperson of the board or a majority vote by the board, a subcommittee may hire a private investigator.

Rule 7. Disposition. After reviewing the recommendation of the investigative subcommittee detailing the results of the investigation, the full board can either dismiss the complaint or recommend additional action.

(a) **Dismissal.** After a discussion at a meeting, the board can dismiss a complaint.

(b) **Additional Action.** The board can do one or more of the items in Rule 8 in response to a complaint.

Rule 8. Recommendations.

(a) **Mediating.** When appropriate, the board can designate someone to attempt to resolve any dispute between a constable and any other another person or entity.

(b) **Requiring a Specific Action or Additional Training.** The board can direct that a constable do something (e.g. provide copies of log entries, provide documents showing expense reports and/or distribution of funds, etc.). The board can also direct that a constable attend training.

(c) Issuing Warnings, Admonishments, or Reprimands.

(1) **Warnings.** A warning can be either verbal or written and is a recommendation to desist from conduct that could be considered inappropriate. It is not considered a type of adverse action. The board may approve a warning in response to a complaint, as part of the dismissal of a complaint, or even if a complaint has not been filed (e.g. a constable is not complying with continuing education and/or training requirements)

(2) **Admonishments.** The board can admonish a constable in writing for conduct that is unacceptable but that is not so serious as to warrant a reprimand.

(3) **Reprimand.** The board can reprimand a constable for conduct that is clearly unacceptable and is established by a preponderance of the evidence.

Notices of Public Information

(d) Urging a Constable to Retire from Office. The board can encourage a constable to retire from office either in connection with allegations of misconduct or in connection with a mental or physical incapacity that seriously interferes with the performance of the constable's duties and is likely to become permanent.

(e) Referring Complaint and Investigation Results to a County Attorney's Office. In addition to a reprimand, the board can forward a complaint and an investigation against a constable to the applicable county attorney's office.

(f) Referring Complaint and Investigation Results to a Presiding Superior Court Judge. In addition to a reprimand, the board can forward a complaint and an investigation against a constable to the applicable presiding superior court judge for possible action in accordance with the requirements of A.R.S. § 22-131(A). *See also, Clark v. Campbell*, 219 Ariz. 66, 193 P.3d 320 (Ct. App. 2008).

Rule 9. Notice to Complainant. The chairperson, or his or her designee, shall inform a complainant of the disposition of his or her complaint in writing.

SECTION C. APPLYING FOR, EVALUATING, AND AWARDING GRANT FUNDS

Rule 10. Background and Purpose. Constables are authorized to collect an additional five dollar fee per writ. A.R.S. § 11-445(A)(17). Those funds are required to be deposited into the Constable Ethics Standards and Training Fund. A.R.S. § 22-138(A). This board administers this fund. By statute, eighty percent of this fund must be spent on training, equipment, and related grants. A.R.S. § 22-138(B)(1). The remaining twenty percent is used for the operation of this board. A.R.S. § 22-138(B)(2).

Rule 11. Training Program Grants

(a) Eligible Applicants. Any organization, group, or person that seeks to administer training to Arizona constables may apply for a training grant.

(b) Eligible Projects. Eligible projects include, but are not limited to, the following:

(1) A program that will fulfill the requisite annual training requirements for constables and deputy constables. A.R.S. § 22-137(D). Any such training must be for a minimum of 16 hours.

(2) A program that will fulfill the requisite initial training requirements for constables and deputy constables. A.R.S. § 22-137(D). Any such training must be for a minimum of 24 hours.

(c) Maximum Amount of Single Award. The board shall set and announce the maximum amount that can be awarded for an individual grant each year.

(d) Additional Requirements. Any training program authorized under this section must be offered free of charge to any constable from a county that has deposited funds into the Constable Ethics Standards and Training Fund. Any such program must also cover all reasonable costs associated with training participating individual constables and deputy constables and constable employees, including any requisite lodging, per diem, and mileage reimbursement.

Rule 12. Equipment Program Grants

(a) Eligible Applicants. A constable from a county in Arizona that has deposited funds into the Constable Ethics Standards and Training Fund is eligible to apply.

(b) Eligible Equipment. Eligible equipment includes any item that would aid or enhance the ability of a constable to do his or her job either more efficiently or more safely.

Rule 13. Grant Application Process. Each year, the board shall establish and shall announce to the public the deadlines, so that applicants may apply for training and for equipment grants. The chairperson of the board, or his or her designee, shall make sure that grant applications with detailed instructions are available each year. If there is sufficient interest, then the chairperson of the board, or his or her designee, shall make sure that a grant application workshop is offered each year in time to enable applicants to timely apply for grants.

Rule 14. Grant Evaluation Process. Each member of the board shall evaluate and shall objectively score each grant application. This evaluation criteria shall be available at the time the grants are announced. The board shall award grants in a public meeting after a vote on each proposal has been held.

NOTICE OF PUBLIC INFORMATION

ARIZONA CONSTABLE ETHICS, STANDARDS, AND TRAINING BOARD (CESTB)

Editor's Note: The following Notice of Rulemaking Docket Opening was submitted by the CESTB and is being published at the request of the Board to allow for public comment. This item is being published in the Notice of Public Information area of the Administrative Register as it does not fit into any other category of notice and the CESTB rules are not part of the Arizona Administrative Code.

[M13-356]

NOTICE OF RULEMAKING DOCKET OPENING

1. **Title and its heading:** N/A
Chapter and its heading: N/A
Article and its heading: N/A
Part and its heading (if applicable): N/A

Section numbers: N/A
2. **The subject matter of the proposed rule:**
The proposed rules establish procedures for the Arizona Constable Ethics, Standards, and Training Board.
3. **A citation to all published notices relating to the proceeding:**
Notice of Proposed Rulemaking: 20 A.A.R. 104, January 10, 2014 (*in this issue*)
4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Constable Ron Myers
Address: Arrowhead Justice Court
14264 W. Tierra Buena Lane, Suite A-201
Surprise, AZ 85374

Telephone: (602) 372-2568
Fax: (602) 372-2571
E-mail: cestb@azcounties.org
Web site: <http://cestb.az.gov/>
5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**
Anyone can request to speak at a scheduled monthly meeting of the Arizona Constable Ethics, Standards, and Training Board and may contact CESTB chairperson, Constable Ron Myers, directly.
6. **A timetable for agency decisions or other action on the proceeding, if known:**
N/A